

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

LARRY NALLS, :
Plaintiff, : Case No. 3:22-cv-243
v. :
MONTGOMERY : Judge Thomas M. Rose
COUNTY PROSECUTOR'S OFFICE, et : Magistrate Judge Caroline H. Gentry
al., :
Defendants.

**ENTRY AND ORDER GRANTING MOTION TO STRIKE (DOC. NO. 46) AND
GRANTING MOTION OF DEFENDANT, LUCASE W. WILDER, TO STRIKE
PLAINTIFF'S OBJECTION TO REPORT AND RECOMMENDATION (DOC.
NO. 48)**

This matter is before the Court on the Motion to Strike (Doc. No. 46), and Motion of Defendant, Lucas W. Wilder, to Strike Plaintiff's Objection to Report and Recommendation (Doc. No. 48). Both motions to strike seek the same relief, namely, that the Court strike Plaintiff Larry Nalls' ("Nalls") Objection to Report and Recommendation (Doc. No. 45). First, Defendant Magistrate Judge Michael Merz ("Merz") and Defendant Lucas W. Wilder ("Wilder") argue that the objection is unsigned as required by Fed. R. Civ. P. 11 and S. D. Ohio Civ. R. 83.5(c) and that Nalls instead signed "/s/ Larry Nalls," which is not permitted by the rules. (Doc. No. 46 at PageID 259-60; Doc. No. 48 at PageID 265.) Merz and Wilder further argue that Nalls' objection is untimely. (Doc. No. 46 at PageID 260-61; Doc. No. 48 at PageID 265-66.) The Magistrate Judge's Report and Recommendation was filed on January 24, 2023. (Doc. No. 45.) Fourteen days later was February 7, 2023. The Report was mailed to Nalls the day of its filing and service was complete upon mailing. Under Fed. R. Civ. P. 6, three days were added to his objection period,

making any objections due by February 10, 2023. The objection was not filed until February 24, 2023. (Doc. No. 45.)

The Court finds that Nalls violated Fed. R. Civ. P. 11 and S. D. Ohio Civ. R. 83.5(c) by failing to sign his objection and that using “/s/” was not a proper means of signing his objection as he is not an electronic filer. Additionally, the Court finds the objections were untimely as Nalls filed his objections after February 10, 2023. Therefore, the Court **GRANTS** Motion to Strike (Doc. No. 46) and **GRANTS** Motion of Defendant, Lucas W. Wilder, to Strike Plaintiff’s Objection to Report and Recommendation (Doc. No. 48).

DONE and **ORDERED** in Dayton, Ohio, this Friday, March 10, 2023.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE